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UNCLAS ZAGREB 001392

SIPDIS

SENSITIVE BUT UNCLASSIFIED

STATE PASS USTR ERRION AND ALVAREZ

E.O. 12958: N/A

TAGS: [KIPR](#) [ETRD](#) [PREL](#) [HR](#)

SUBJECT: AMBASSADOR WRITES PRIME MINISTER ON
INTELLECTUAL PROPERTY MOU

REF: ZAGREB 1187 and previous (notal)

1. After hearing from industry contacts that the Ministry of Health had deleted language from the draft pharmaceutical law that would have provided EU-comparable protection for confidential test data, and after failing to see Croatian progress on moving the 1998 MOU on intellectual property to the Parliament, the Ambassador sent the following letter to Prime Minister Racan:

Begin Text of Letter:

His Excellency
Ivica Racan
Prime Minister of the Republic of Croatia,
Zagreb

June 16, 2003

Dear Mr. Prime Minister:

I am writing to express the continuing request of my government that the Croatian government forward to the Sabor the U.S.-Croatian Memorandum of Understanding on Intellectual Property, signed in 1998. I also write to express our concern that language to protect pharmaceutical test data has been removed from the draft Pharmaceutical Law. This language, while not substituting for ratification of the Memorandum of Understanding, would help address one of our major concerns regarding Croatia's inadequate protection of the intellectual property rights of U.S. as well as other foreign companies. Its deletion further calls into question the willingness of the Government of Croatia to fulfill its obligation to the U.S. to ratify the Memorandum of Understanding, which is an important outstanding matter in our relations.

You will recall that the U.S. actively supported Croatia's entry to the WTO and has brought into effect the Bilateral Investment Treaty, both measures to which we agreed as part of a package with the Memorandum of Understanding. We fulfilled our commitments in this matter; Croatia has not yet done so. That failure led to Croatia being named to the U.S. Special 301 Watch List. In the absence of concrete progress, Croatia will eventually face trade sanctions. This is troubling, especially in the context of other recent disappointments in our bilateral relationship. Secretary of Commerce Evans and UnderSecretary of State

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Larson raised the issue of the Memorandum of Understanding with you during your trip to Washington last summer. Assistant Secretary of State Jones raised this issue with the Foreign Minister in New York last autumn. I myself have raised it with Deputy Prime Minister Simonovic and the Ministers of Foreign Affairs, Economy and Health. My staff has discussed it on many occasions with working level counterparts. In none of these conversations has the Croatian side contested that Croatia undertook the obligation to take all measures necessary to ratify the Memorandum of Understanding as soon as possible after signature.

I urge that Croatia move from rhetorical recognition of its obligations to their fulfillment by moving the Memorandum of Understanding in its entirety to the Sabor for ratification now. I also encourage the reintroduction of language on data exclusivity into the draft Pharmaceutical Law. That would enable Croatia to implement its commitment under the Memorandum of Understanding to protect clinical test data as quickly as possible.

Sincerely,

Lawrence G. Rossin
Ambassador

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